IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1128 OF 2004.

Mohammad Juber Mansor Ibushe. ... Petitioner
Versus.
Injmam Mohammad Juber Ibushe
minor throgh his mother
Rukasana Bap Karim Momin & anr. ... Respondents.

Shri Ashok J.Chougule for the Petitioner.

Shri R.S.Kate for the Respondent No.1.

Ms.M.M.Deshmukh, A.P.P. for the State.

CORAM : ABHAY S. OKA, J.

DATED : 18th July, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The learned Magistrate passed an order directing the Petitioner to pay maintenance of Rs.1200/- per month to the minor child. Revision was filed in the Sessions court and the same has been dismissed by order dated 20th March 2004. The learned Counsel for the Petitioner submitted that the mother of the Respondent No.1 has contracted second marriage and in fact the Respondent No.1 is residing with his grand father. He submitted that the Respondent No.1 is in the custody of his grand father. He submitted that an application has been made under the provisions of the Guardian and Wards Act by the Petitioner praying for custody of the minor child and the same is pending in the appropriate Court.

2. After having heard the learned Counsel for the Petitioner and after going through the impugned Judgments and Orders, I find that no case is made out for interference in a petition under Article 227 of the Constitution of India. Considering the evidence on record, the quantum of maintenance fixed at Rs.1200/- per month, needs no interference and hence the Petition is rejected. However, it is made clear that the Application made by the Petitioner under the provisions of the Guardian and Wards Act will be decided by the concerned Court on its own merits without being influenced by the findings recorded in the impugned Judgments and orders.

Judge.